

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

Bulletin 2003-3
Issued this 6th day of August, 2003

To: All Workers' Compensation Insurers Licensed in Minnesota

This bulletin contains the filing procedures and forms that should be utilized to expedite the review of workers' compensation filings made in Minnesota. The purpose of this bulletin is to assist workers' compensation insurers in meeting the filing requirements set forth in Minnesota Statutes and Minnesota Rules, and to provide insurers with additional information that will assist the department in expediting the review process. It supersedes Bulletins 98-2, 99-3, 2000-1, 2001-2, 2002-6 and 2002-7. Any enforcement action or filing disapprovals will be based on a case-by-case analysis in accordance with applicable Minnesota statutes and administrative rules.

1. **Limited Power of Attorney – (LPOA)**

Under Minn. Stat. §79.56, Subd. 1, each insurer is required to file with the commissioner "a complete copy of its rates and rating plan, and all changes and amendments thereto." This statutory language became effective January 1, 1996, and significantly changed workers' compensation filing procedures. The previous statutory language allowed insurers to automatically use all of the rating plans and other filings made by the Minnesota Workers' Compensation Insurers Association (MWCIA) on their behalf, and only required that each insurer file its schedule of rates and independent rating plan modifications for approval by the department.

The 1995 legislative revisions deleted the statutory language that permitted these so-called "reference filings", which made it necessary for each insurer to independently file all filings that were made by the MWCIA. Because of the administrative burden of this requirement, the department agreed to an alternative proposed by the industry that permits an insurer to elect to continue to use MWCIA filings by submitting a one-time Limited Power of Attorney (LPOA). A copy of the LPOA is attached for your reference. The LPOA remains in force until the insurer notifies the department that it intends to revoke the authorization.

If your company is recently licensed, has been inactive or you have other questions regarding whether the LPOA has been filed on its behalf, please contact the department.

2. **Items for which separate filing fees are required:**

- a. schedule of rates;
- b. rate deviations;
- c. dividend plans;
- d. policy forms;
- e. endorsements; and
- f. retrospective rating plans.

[Minnesota Rules Part 2605.0200(F)]

Many insurers choose to combine several items within one filing. However, when preparing a filing bear in mind that the more items that are combined in a filing, the greater the risk that problems may be found that delay approval or result in disapproval of the filing. Also, there are different statutory review timelines for rates and forms, so when both are contained in one filing the more stringent review timeline must be applied. Therefore, if some items are time sensitive, they should probably be filed separately from other less critical items. For example, while it makes sense to combine a schedule of rates filing with a rate deviation filing, adding forms to the filing may delay approval or result in disapproval of the filing.

3. **Electronic Filings**

The department will begin accepting filings via e-mail, as well as through SERFF, later this year. Instructions for how to submit e-mail filings will appear on the department website www.commerce.state.mn.us on September 2, 2003. The department should also be ready to accept workers' compensation filings on SERFF sometime in mid-September.

4. **Filing Timeline**

Minnesota Statutes §79.56, Subd. 1 requires each insurer to file with the department a complete copy of its rates and rating plan, as well as all supporting documentation requested by the department, at least 60 days prior to its effective date.

In addition, when preparing your filing you should also bear in mind that Minn. Stat. §60A.351 requires insurers renewing a workers' compensation policy at less favorable terms to provide the insured with notice of the changes at least 60 days prior to the expiration of the policy. For further information regarding this statute, please refer to our department Bulletin 2002-2.

5. **Special Compensation Fund Assessment**

The procedure for collecting the Special Compensation Fund assessment was altered during the 2002 Legislative Session. As a result of the revisions made to Minn. Stat. §176.129, Subd. 2a.(c) a factor for the Special Compensation Fund assessment may no longer be included in the Development of the Pure Premium Multiplier exhibit. Any insurer that did not make a rate filing to revise its pure premium multiplier last year, will need to re-calculate its pure premium base rate multiplier at this time making an accommodation for the deletion of the Special Compensation Fund assessment. If an insurer has previously added the Special Compensation Fund assessment as a surcharge to its insured's policies, the surcharge should no longer be filed as part of the rating plan.

Since many employers will not be used to seeing the Special Compensation Fund assessment appear as a separate charge on their policies, the department encourages all insurers to attach an explanatory notice on all workers' compensation policies upon their initial issuance or renewal.

6. **Basic Schedule of Rates filings should contain the following items:**

- a. The Workers' Compensation Rate Filing Form [DOC-WC-1 (ed. 7/03)] should be completed. A copy of this form is attached for your reference.

Please note: The Minnesota Department of Commerce recommends that insurers base their 2004 rate filings on the January 1, 2004 Minnesota Ratemaking Report.

- b. A company filing a rate change should provide data and analysis to establish that the proposed rates are adequate and not excessive. [Minn. Stat. §79.55]
- c. We recommend that five years of loss and expense experience be submitted. If the company has not been writing workers' compensation coverage in Minnesota for five years, as much Minnesota experience as is available should be submitted. If five years of countrywide experience is available, that should also be submitted [Minn. R. Part 2705.2500, Subp. 1].
- d. An exhibit describing how the company's pure premium base rate multiplier was developed must be included. [Minn. R. Part 2705.1800(E)] The department does not require the format of the company's exhibit to be identical to the sample format, but the company's exhibit should not neglect any of the items included in the sample. For example, if the company chooses not to use trend or development factors, it should not simply leave out any mention of such factors; it should explain and support its choice. Please be aware that the Minnesota Adoption of Rate Service Organization Prospective Loss Costs Reference Filing Adoption Form, which is used for other property/casualty lines, is not suitable for use with workers' compensation rate filings.

Also, the pure premium base rate multiplier calculation should not include a .25 percent assessment for the Assigned Risk Plan Review Board, as this assessment only applies to Assigned Risk Plan policies.

- e. If the company is deviating any classification codes the Class Code Deviation Filing Form [DOC-WC-2 (7/98)] and the Average Effective Multiplier Calculation [DOC-WC-7 Rev. 7/02]] must be submitted. A copy of these forms is attached. There is no limit on the number of classification codes that may be deviated. Each deviation must be supported, and this supporting documentation must be submitted as a part of your filing [Minn. R. Part 2705.1800(E)].
- f. Final manual rate pages must be submitted [Minn. Stat. §79.56, Subd. 1]. When calculating your rates for classification codes for which Minnesota Contractors Premium Adjustment Program (MCPAP) pure premium base rates appear, those are the base rates that must be used. Use of the DSR pure premium base rates will result in artificially low rates.
- g. Do not submit the State of Minnesota Filing Certification form with workers' compensation filings. Bulletin 2000-4, which contains this form, specifically states that it does not apply to workers' compensation insurance.
- h. Do not submit a Rate Change Impact Table with the filing. This requirement was abolished in 1999. Refer to department bulletin 99-3.
- i. We also request that the company submit an extra copy of any materials it wants returned for acknowledgment of the department's approval. A stamped self-addressed envelope bearing sufficient postage for the materials the company wants returned must also be submitted. If no envelope is enclosed, or the amount of postage is inadequate, a stamped copy of the most recent cover letter is the only documentation that will be returned.

- j. Do not send copies of rate filings to the MWCIA until approval has been received from this department. This ensures that the MWCIA has a correct copy of your most recent rates on file.

7. **Schedule Rating Plans**

Minnesota Rule Part 2705.3000 precludes any schedule-rating plan from utilizing a maximum debit in excess of 25 percent.

8. **Additional Credits**

Historically the department has approved the types of additional credits discussed below. To expedite the review process, the referenced maximum credits can be approved without actuarial support. Filings requesting higher maximum credits will be considered on the basis of the loss experience and other actuarial support provided.

a. **Drug-Free Workplace**

Insurers who file drug-free workplace programs that meet the requirements of Minn. Stat. §181.950 – 181.957 may offer a 5 percent credit. An insurer can file a larger credit if it can provide adequate actuarial support.

The department recommends, but does not require, that insurers attach an amendatory endorsement to the policy that contains a statement similar to the following:

“Employers insured under this coverage should be aware of the Drug and Alcohol Testing In The Workplace provisions contained in Minn. Stat. §181.950 – 181.957. An insured employer that violates this law may have exposure for damages, attorney fees, and injunctive relief that will not be covered by this policy.”

b. **Managed Care**

The department will approve a 5 percent credit for insurers who have contracted with a managed care organization that is certified under Minn. Stat. §176.1351. An insurer can file a larger credit if it can provide adequate actuarial support. If the insurer is offering a managed care program, but has not contracted with a certified managed care organization, a credit may be offered if the company can provide actuarial support for the amount of the credit being requested. The maximum that has been approved to date has been 3 percent.

The department recommends, but does not require, that insurers attach an amendatory endorsement clarifying the type of managed care coverage that is being offered. Two sample endorsements are included in the bulletin, one for use when a certified managed care organization has been contracted with and the other for use when an uncertified managed care organization is being utilized.

c. **Collective Bargaining Dispute Resolution**

The department will allow a credit of 3 percent to be offered to an employer that is a party to a collective bargaining agreement that has been approved by the Minnesota Department of Labor and Industry in accordance with Minn. Stat. §176.1812. An insurer can file a larger credit if it can provide adequate actuarial support.

Insurers who choose to offer such a credit must file a Minnesota Dispute Resolution Endorsement similar to the one included in this bulletin. The Department of Labor and Industry recommends the attached endorsement

d. **Safety Programs**

Minnesota Statute §79.085 requires that all insurers writing workers' compensation insurance in Minnesota shall provide safety and occupational health loss control consultation services to each of their policyholders requesting the services in writing. Insurers may offer a credit of up to 3 percent to policyholders who request these services. An insurer can file a larger credit if it can provide adequate actuarial support.

e. **Return-To-Work Programs**

The department has approved credits of up to 2 percent for insurers that want to provide an incentive for insureds to comply with the statutory return-to-work requirements. An insurer can file a larger credit if it can provide adequate actuarial support.

9. **Deductibles**

- a. Minnesota Statute §79.081, Subd. 1 requires each insurer writing workers' compensation in Minnesota to make a deductible available to a policyholder upon request. An insurer is not required to offer a deductible to an employer if, as a result of a credit investigation, the insurer determines that the employer is not sufficiently financially stable to be responsible for the payment of deductible amounts. This exception is found in Minn. Stat. §79.081, Subd. 3.
- b. Minnesota Statutes §79.081, Subd. 2 requires that if an insured employer chooses a deductible, the insurer shall administer the claim as provided in the terms and conditions of the insurance policy and seek reimbursement from the insured employer for the deductible.
- c. Newly licensed Minnesota workers' compensation insurers should be aware of the following requirement contained in Minn. Stat. §79.081, Subd. 2. Each insurer shall notify its agents authorized to write workers' compensation insurance about the availability and terms and conditions of deductibles required by this section, using a brochure in a format approved by the commissioner.

10. **Large Deductible Plans**

- a. Any company offering a large deductible plan must include a statement in its rating manual certifying that no deductible limit will be offered or written that exceeds the company's retention limit with the Workers' Compensation Reinsurance Association (WCRA). Minnesota Statute §79.34 states as follows:

"The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of a low, a high, or a super retention limit, at the option of the member."

- b. Coverage must be provided on a per occurrence basis, except in the case of occupational disease where coverage must be provided on a per person per occurrence basis. This requirement is contained in Minn. Stat. §79.34, Subd. 2. If your company is using a large deductible program with limits on other than a per loss occurrence basis, the policy should be revised to comply with the statutory language and re-filed with the department at the earliest opportunity.
- c. Minnesota Statutes §79.081, Subd. 2 requires that if an insured employer chooses a deductible, the insurer shall administer the claim as provided in the terms and conditions of the insurance policy and seek reimbursement from the insured employer for the deductible. If you currently are using a large deductible form that contains language indicating that the employer will or may pay claims directly and seek reimbursement from the insurer, you should revise your form to comply with the statutory language at the earliest opportunity.
- d. Please note that if you are using mutually agreed upon terms to rate your large deductible program, the insured should meet the statutory threshold of \$250,000 in Minnesota workers' compensation premium set out in Minn. Stat. 79.56, Subd. 3 and the Large Risk Rating Filing certification form [DOC-WC-10] should be filed with the department on a per employer basis upon policy renewal.

11. **Dividend Plans**

If more than one dividend plan is being filed, the various plans must be accompanied by objective and logical assignment criteria. It must be demonstrated that the process does not permit the possibility of different final premiums for identical policyholders [Minn. Stat. §79.074, Subd. 2].

12. **Form Filings**

Insurers must use the forms filed on their behalf by the MWCIA, unless it is a rating related endorsement for which the MWCIA has not made a suitable filing. The applicable administrative rule is Minn. R. Part 2705.3200. This rule states as follows:

"Workers' compensation insurance must be written using policy forms filed by the data service organization of which the insurer is a member except that if the insurer files a rating plan requiring a policy provision or endorsement for which the data service organization has made no usable filing, then the insurer may file its own policy forms needed to implement its rating plans."

Some examples of the types of independent forms that may be filed are dividend plan endorsements, managed care endorsements, drug-free workplace endorsements, and collective bargaining dispute resolution endorsements.

A copy of forms filed and available for use may be found on the MWCIA web-site www.mwcia.org.

13. **Minnesota Statutes §79.56, Subd. 3(b)**

Effective August 1, 2001, this statute was revised to create an exception to the nonnal filing requirements for an employer who generates \$250,000 in annual written workers' compensation premium in Minnesota under the rates and rating plan of an insurer before the application of any large deductible rating plans. Such an employer may be written by an insurer using rates or rating

plans that are not subject to disapproval, but which have been filed with the department. The Large Risk Rating certification form [DOC-WC-10] should be filed for each employer being rated under this statutory provision upon policy renewal. This filing form applies to all types of rating plans that fall under this statute, including but not limited to large deductible programs, large risk alternative rating options (LRARO), and deviated loss cost multipliers and other rating factors.

Effective April 17, 2002 this statute was further revised to pennit that for purposes of Large Risk Alternative Rating Option (LRARO) programs, workers' compensation premiums generated from states other than Minnesota can be included in calculating the \$250,000 threshold. The filing fee for LRARO filings, found in Minn. Stat. §60A.14, Subd. 1(a)(9), was also increased to \$250. per employer.

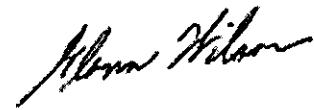
14. Excess Workers' Compensation Insurance

Any company offering an excess workers' compensation insurance policy must include a statement in its rating manual certifying that no excess retention will be offered or written that exceeds the company's retention limit with the Workers' Compensation Reinsurance Association (WCRA). The basis for this requirement is found in Minn. Stat. §79.34, Subd. 2.

15. **Cancellation for Nonpayment of Premium**

Our department staff attorneys have reviewed the question of whether Minn. Stat. §60A.36, Subd. 2 or Minn. Stat. §176.185, Subd. 1 controls for purposes of cancellation of a workers' compensation policy based on nonpayment of premium. It is their determination that insurers are to comply with the requirements of section 60A.36 in addition to the requirements of section 176.185, Subd. 1. Therefore, the minimum number of days notice that can be given when canceling a workers' compensation policy on the basis of nonpayment of premium is 30 days. If you have a cancellation endorsement on file with the department that provides for less than 30 days notice for cancellation based on nonpayment of premium; it should be withdrawn or revised to provide 30 days notice.

Questions regarding this bulletin should be refened to Tammy L. Lohmann, Chief Workers' Compensation Analyst at (651) 296-2327 or tammy.lohmann@state.mn.us.



Glenn Wilson
Commissioner of Commerce

Minnesota

Workers' Compensation Rate Filing Form

NAIC Company Number

Company Name

Proposed Effective Date: _____

Overall Effect of Rate Change: _____

This filing is based on the 200____ Minnesota Ratemaking Report

The company is using the advisory Special Compensation Fund (SCF) surcharge rate contained in the 2004 Minnesota Ratemaking Report.

OR

The company is using an independent Special Compensation Fund (SCF) surcharge rate of _____.

If the company uses the pure premium base rates with NO deviations by class, complete the following:

the multiplier is : _____
the expense constant is: _____
the largest rate increase for any class is: _____
the smallest rate change for any class is: _____

If the company has different multipliers for different classes, complete the following:

the lowest multiplier is : _____
the highest multiplier is : _____
the average effective multiplier is: _____
the expense constant is: _____
the largest rate increase for any class is: _____
the smallest rate change for any class is: _____

The company must attach

- The Class Deviation Filing Form
- The Average Effective Multiplier Calculation

If the company is using some other methodology, a complete explanation of the rates and methodology must be attached.

Minnesota

CLASS DEVIATION FILING FORM

Insurer Name _____

Effective Date _____

Code No.	Classification Title	Current Rate	Proposed Pure Premium Multiplier	New Rate	Percent Rate Change	Prior Year Written Premium
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Class Deviations shall apply to all insureds classified in codes for which a deviated rate has been filed.

Signature

Date

**MINNESOTA WORKERS' COMPENSATION
CERTIFIED MANAGED CARE PLAN
ENDORSEMENT**

The insurer has contracted with _____, a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. section 176.1351. Under this contract medical treatment for your employees' work-related injuries will be delivered and managed according to the managed care plan as certified and applicable state law.

The certified managed care plan must provide medical case management by licensed health care professionals, to ensure appropriate medical care and promote a prompt return to work. The managed care plan must also provide a process for resolving medical disputes. This dispute resolution process must be exhausted before the medical dispute may be filed with the Minnesota Department of Labor and Industry.

Your employees are covered by certified managed care for work injuries that occur after they have been given specific information about their rights and responsibilities under the managed care plan. A covered employee may be required to receive treatment for a work injury from a health care provider who is part of the plan's provider network. There are exceptions to this requirement, such as in an emergency and in some cases where the employee has a history of treatment with another health care provider. The managed care plan will help you notify your employees of coverage and will explain these and other exceptions to managed care coverage.

MINNESOTA WORKERS' COMPENSATION UNCERTIFIED MANAGED CARE ENDORSEMENT

The insurer has contracted with _____, a health care provider network, to provide health care services for employees with work-related injuries. *[If applicable: these health care providers may be paid for their services at discounted or negotiated payment rates.]*

This program is not a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. section 176.1351. Therefore, the employer or insurer may not require an employee to receive treatment for a work injury from any health care provider within this network.

SAMPLE DEVELOPMENT OF PURE PREMIUM MULTIPLIER

A. LOSS RELATED ITEMS

1. Loss cost modification factor	1.000	
2. 8th-to-ultimate development factor	1.128	
3. Trend factor	1.046	
4. Loss adjustment expense (LAE)	1.255	
5. Loss factor (A1xA2xA3xA4)		1.481

B. PREMIUM-RELATED EXPENSES AND PROFIT

6. Commission and brokerage	0.064	
7. Other acquisition	0.061	
8. General expenses	0.083	
9. Taxes, licenses & fees		
a. Premium taxes	0.020	
b. Other	<u>0.005</u>	
10. Total premium-related expenses (sum of B6 through B9)	0.238	
11. Profit & contingencies	0.060	
12. Credit for investment income	<u>-0.160</u>	
13. Total premium-related expense & profit (B10+B11+B12)	0.138	
14. Expected loss and LAE ratio (1.0 - B13)		0.862

C. FORMULA LOSS COST MULTIPLIER (A5 / B14) 1.902

D. SELECTED LOSS COST MULTIPLIER _____

NOTE: The department does not require the format of the company's exhibit to be identical to the sample format, but the company's exhibit should not neglect any of the items shown above. The numbers used in this sample exhibit are illustrative only. The company should be able to explain and support its numbers.

**MINNESOTA WORKER'S COMPENSATION
AVERAGE EFFECTIVE MULTIPLIER CALCULATION**

This form must be completed by any company that deviates its multiplier for one or more classes.

(1) code number	(2) current pure premium multiplier	(3) proposed pure premium multiplier	(4) prior year written premium	(5) relative exposure [(4)/(2)]	(6) relative proposed premium [(3)x(5)]
2731	1.600	1.550	1500	938	1453
4777	1.600	1.450	23100	14438	20934
4902	1.500	1.450	0	0	0
4923	1.500	1.450	42000	28000	40600
5000	1.600	1.550	155000	96875	150156
5020	1.600	1.550	10000	6250	9688
All Other	1.700	1.700	500	294	500
Total				146794	223331
Average effective pure premium multiplier [(6) total / (5) total]					1.521

SAMPLE

**LIMITED POWER OF ATTORNEY FOR
PURPOSE OF REGULATORY FILINGS**

TO: Minnesota Department of Commerce, Property/Casualty & Self-Insurance Division

RE: Workers' Compensation Rating Plan Filings

Effective Date: _____

This limited power of attorney is filed on behalf of the following insurers licensed to write workers' compensation in Minnesota.

_____	_____
_____	_____
_____	_____
_____	_____

The above insurers hereby designate and appoint the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) as their attorney-in-fact for the following limited purposes only.

(a) To file with the Minnesota Department of Commerce in the name and on behalf of each of the above named insurers all rating plan filings and modifications filed by MWCIA with the Department of Commerce and approved by the Department for use in Minnesota.

(b) This limited power of attorney does not apply to any filings made by one or more of the above insurers which further modify or elect not to use any of the filings made by the MWCIA and does not apply to rate schedules filed by the insurers. Such individual insurer filings are filed as an exception to the MWCIA filed plans and those filings, together with individual insurer rates upon approval by the Department of Commerce or as provided by statute, will supersede any applicable MWCIA filings.

(c) This limited power of attorney is filed to effect partial compliance with Minn. Stat. § 79.56, subd. 1 ("each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto") and for no other purpose. The authority granted by this document is specifically and explicitly limited to that purpose and may be withdrawn at any time by the above named insurers upon written notice to the Department of Commerce and the MWCIA.

(d) The above named insurers specifically acknowledge that each filing must be in conformance with the filing procedures of the Minnesota Department of Commerce and must be accompanied by a filing fee where appropriate. Each insurer acknowledges that it has the individual liability to assure that each and every filing complies with its obligations under applicable Minnesota law. This document does not shift these obligations to the MWCIA. Neither the above named insurers nor the Department should look to the MWCIA as a guarantor that these obligations are met. Under this limited power of attorney, the MWCIA serves solely as the empowered filing agent for the above named insurers.

Signature

Print Name

Title

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me this

_____ day of _____, 1999.

Notary Public

Encl.: Minnesota Property and Casualty Transmittal Form
\$75 filing fee to Minnesota Department of Commerce

cc: Minnesota Workers' Compensation Insurers Association, Inc.
7701 France Avenue South, Suite 450
Edina, Minnesota 55435

MINNESOTA DISPUTE RESOLUTION ENDORSEMENT

This endorsement modifies insurance under the following:

Workers Compensation and Employers Liability Insurance Policy

Name Insured: _____

Policy Number: _____

Endorsement Effective Date: _____

Endorsement Number: _____

This endorsement is issued by the company named on the Information Page. It forms a part of the policy as of its effective date, at the hour stated on the Information Page.

We agree that all Workers' Compensation claims with employees who are subject to collective bargaining agreements with the Insured will be resolved in accordance with the rules and regulations of said agreements as authorized under Minn. Stat., Section 176.1812 provided that such agreement(s) have been approved by the Commissioner of Labor and Industry. The Named Insured will provide us with copies of all such agreements and the Commissioner's approval of each agreement.

LARGE RISK RATING FILING

[Pursuant to Minnesota Statutes Section 79.56, subdivision 3 (b)]

Name and address of insurer:

Name and address of insured employer:

Policy Period: _____

I certify that the employer named above generates \$250,000 or more in annual countrywide/Minnesota written workers' compensation premium, and that the calculation of this threshold is based on the rates and rating plans that have been approved by the appropriate state regulatory authority. The filing of this certification authorizes the use of this rate and/or rating plan only for the named employer.

Name of responsible officer: _____

Title: _____

Signature: _____